



SENATE BILL 155: Wake Local Stormwater Utility Fees

2011-2012 General Assembly

Committee: Senate Finance
Introduced by: Sen. Stein
Analysis of: First Edition

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SUMMARY: *Senate Bill 155¹ would allow the towns of Garner, Knightdale, Morrisville, Wendell, and Zebulon to bill stormwater utility fees in the same manner as property taxes, and in the case of nonpayment, to collect them in the same manner as property taxes. The Senate State and Local Government Committee gave the bill a favorable report.*

CURRENT LAW: Cities may operate a stormwater management program as a public enterprise² and may establish a schedule of fees for the services furnished by the program. A city may collect delinquent fees by any remedy provided by law for collecting and enforcing private debts. As a general rule, fees for enterprisory services cannot be a lien upon the property served by the enterprisory service. In 1991, the General Assembly provided an exception to this rule for fees imposed for solid waste collection and disposal services when it allowed cities and counties to collect the fees for this service in the same manner as property taxes. Delinquent property taxes may be collected using any one or more of the remedies provided in G.S. 105-366 through G.S. 105-375:

- Levy upon and sell or attach personal property.
- Attachment and garnishment of wages and other compensation, rents, bank deposits, the proceeds of property subject to levy, or any other intangible property.
- Foreclosure of real property.

By local acts, the General Assembly has authorized numerous cities and counties to collect delinquent water and sewer fees or sewer treatment fees in the same manner as property taxes.³ In 2005, the General Assembly authorized the Town of Kernersville and the Village of Clemmons to collect delinquent stormwater management fees in the same manner as property taxes.

BILL ANALYSIS: Senate Bill 155 is a local act that would add the towns of Garner, Knightdale, Morrisville, Wendell, and Zebulon to the local legislation enacted for Kernersville and Clemmons in 2005, thereby allowing these towns to adopt an ordinance providing that stormwater utility fees may be billed with property taxes and made payable in the same manner as property taxes, and in the case of nonpayment, may be collected in the same manner as delinquent property taxes. If an ordinance states that delinquent fees can be collected in the same manner as delinquent real property taxes, the fees are a lien on the real property described on the bill that includes the fee.

EFFECTIVE DATE: This act is effective when it becomes law.

S155-SMRB-16(e1) v1

¹ H216, introduced by Reps. Murry, Jackson, Ross, is the House companion bill.

² Other types of public enterprises a city may operate include electric power generation, water and sewer systems, natural gas distribution, public transportation systems, cable television systems, parking facilities, and solid waste collection and disposal.

³ S.L. 1993-768, City of Durham; S.L. 1995-577, Counties of Camden, Chowan, Currituck, Pasquotank, Perquimans, Tyrrell, and Washington; S.L. 2003-270, Counties of Davie, Duplin, and Lenoir and the municipalities in those counties; S.L. 2003-270, the municipalities in Columbus County; S.L. 2004-96, Town of Holden Beach; S.L. 2006-54, Oak Island; S.L. 2010-29, Caswell Beach; S.L. 2010-59, City of Locust and the towns of New London and Stanfield.